

FILED

2013 MAR -6 PM 3:29
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

Jihad M. Smaili, Esq. [262219]
SMAILI & ASSOCIATES, P.C.
Civic Center Plaza Towers
600 West Santa Ana Blvd., Suite 202
Santa Ana, California 92701
714-547-4700
714-547-4710 facsimile
jihad@smaililaw.com

Attorney for Plaintiff Dr. Abbas Ali Etemadi

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION, SANTA ANA

DR. ABBAS ALI ETEMADI,

Plaintiff,

v.

JANET NAPOLITANO, in her official
capacity as Secretary of the Department of
Homeland Security; DAVID V. AGUILAR,
in his official capacity as Deputy
Commissioner of U.S. Customs and Border
Protection; SANDRA HUTCHENS, in her
official capacity as Orange County Sheriff;
ROBERT H. GUSTAFSON, in his official
capacity as Chief of Police of the City of
Orange; D. MERCER, in her official
capacity as City of Orange police officer;
and Does 1 – 10, inclusive,

Defendants.

Case Number: **SACV 13 - 00393 CJC (MLGx)**

**COMPLAINT FOR
INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, Dr. Abbas Ali Etemadi (hereinafter “DR. ETEMADI”), and
for his Complaint for Injunctive Relief, alleges the following:

COMPLAINT FOR INJUNCTIVE RELIEF

[illegible]

2. This Court has supplemental jurisdiction (formerly “pendent claim jurisdiction” and “pendent party jurisdiction”) extending this Court’s power over the herein alleged state claims that are within the same case or controversy pursuant to 28 U.S.C. §1367(a).

3. This is a civil action brought by DR. ETEMADI seeking an order from this Honorable Court requiring Defendants to produce documents and information duly requested by DR. ETEMADI pursuant to the mandates of the Freedom of Information Act and the Public Records Act.

5. DR. ETEMADI is retired dentist by trade, and a naturalized United States Citizen who has lived in this Country for over thirty years.

Page 2 of 5

1 public scrutiny. The mandate of Freedom of Information calls for broad disclosure of federal
 2 government records so that the relevant federal agency must disclose agency records unless said
 3 records may be withheld pursuant to one or more of enumerated exemptions listed in the statute,
 4 i.e. 5 U.S.C. §552. Since Congress designed the Freedom of Information Act to pierce the veil
 5 of administrative secrecy and to open agency action to light of public scrutiny, the Act places a
 6 strong presumption in favor of disclosure.

7
 8 7. Like the Freedom of Information Act, the Public Records Act, codified at Cal.
 9 Gov. Code §6250, *et seq.*, was intended to safeguard the accountability of the government to the
 10 public by establishing a fundamental right for the public in California to access government
 11 records for secrecy is antithetical to a democratic system of “government of the people, by the
 12 people, and for the people.” In fact, the Public Records Act was modeled after the Freedom of
 13 Information Act of 1967 and draws on its federal counterpart for judicial construction and
 14 legislative history.

15
 16 8. DR. ETEMADI seeks to obtain information and documents currently being held
 17 by federal and local agents, agencies, departments, and divisions pursuant to INA §336(b), 8
 18 U.S.C §1447(b).

19 20 PARTIES

21
 22 9. DR. ETEMADI is a resident of the County of Orange, California, and has resided
 23 therein throughout the relevant timeframe of this action. DR. ETEMADI is the requester of the
 24 documents and information which Defendants are now withholding.

25 10. Defendant JANET NAPOLITANO (hereinafter “Defendant NAPOLITANO”) is
 26 currently, and was throughout the relevant timeframe subject to this action, the Secretary of the
 27
 28

1 Department of Homeland Security and its Chief Administrative Officer. As such,
 2 NAPOLITANO is charged with the administration of the Department of Homeland Security, and
 3 with the administration and enforcement of the Freedom of Information Act as it pertains to the
 4 Department of Homeland Security; NAPOLITANO is an Executive Officer of the United States.

6 11. Defendant DAVID V. AGUILAR (hereinafter "Defendant AGUILAR") is
 7 currently, and was throughout the relevant timeframe subject to this action, Deputy
 8 Commissioner of U.S. Customs and Border Protection.

10 12. Defendant SANDRA HUTCHENS (hereinafter "Defendant HUTCHENS") is
 11 currently, and was throughout the relevant timeframe subject to this action, Orange County
 12 Sheriff. The County of Orange is considered a "local agency" under the Public Records Act.
 13 Cal. Gov. Code §6252(a).

14 13. Defendant ROBERT H. GUSTAFSON (hereinafter "Defendant GUSTAFSON")
 15 is currently, and was throughout the relevant timeframe subject to this action, the Chief of Police
 16 of the City of Orange. The City of Orange is considered a "local agency" under the Public
 17 Records Act. Cal. Gov. Code §6252(a).

19 14. Defendant D. MERCER (hereinafter "Defendant Mercer") is currently, and was
 20 throughout the relevant timeframe subject to this action, a City of Orange police officer.

22 FACTUAL ALLEGATIONS

23 15. Upon information and belief, for the past several years, DR. ETEMADI has
 24 been subjected to mistreatment, harassment and discrimination by local and federal officials,
 25 agencies and departments in part due to his national origin (Iran) and/or his religion (Islam).

1 16. Upon information and belief, Defendants are in possession of documents related
2 to such mistreatment, harassment and/or discrimination which were duly requested by DR.
3 ETEMADI but which Defendants are either denying the existence of such documents and
4 information, are refusing to produce (in whole or in party) these documents, or have failed to
5 maintain such documents and information as required by law.
6

7 17. DR. ETEMADI has exhausted the entirety of administrative remedies in an
8 effort to secure such documents and information to no avail.
9

10 18. As such, DR. ETEMADI has no other remedy at law or any recourse except to
11 seek the assistance of this Court.

12 WHEREFORE, DR. ETEMADI requests that this Honorable Court:

- 13 A. Grant Dr. ETEMADI's request that the entirety of documents
14 and information pertaining to himself that are being held by
15 Defendants be produced, and that all Defendants be ordered to
16 promptly produce the same in full and without any redaction;
17 B. Grant attorney's fees and costs as allowed by law; and
18 C. Grant such other and further relief as may be appropriate.
19
20

21 Respectfully Submitted,
22

23
24 Date: 03/06/2013

25 SMAILI & ASSOCIATES, P.C.

26 By: 
27 Jihad M. Smaili, Esq.
28

Name & Address: Jihad M. Smaili, Esq. 262219
 SMAILI & ASSOCIATES, P.C.
 600 West Santa Ana Blvd., Suite 202
 Santa Ana, California 92701
 714 547 4700
 714 547 4710 f

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Dr. Abbas Ali Etemadi,

PLAINTIFF(S)

v.

Janet Napolitano, in her official capacity as Secretary
 of the Department of Homeland Security; SEE
 ATTACHED.

DEFENDANT(S).

CASE NUMBER

SACV 13 - 00393 CJC (MLGx)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Jihad M. Smaili, Esq., whose address is 600 West Santa Ana Blvd., Suite 202, Santa Ana, CA 92701. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 3/6/2013

By: **DENISE VO**
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

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Attorney for Plaintiff Dr. Abbas Ali Etemadi

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION, SANTA ANA

DR. ABBAS ALI ETEMADI,

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**COMPLAINT FOR
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COMES NOW, Plaintiff, Dr. Abbas Ali Etemadi (hereinafter “DR. ETEMADI”), and
 for his Complaint for Injunctive Relief, alleges the following:

COMPLAINT FOR INJUNCTIVE RELIEF

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV13- 393 CJC (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Dr. Abbas Ali Etemadi

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Jihad M. Smaili, Esq., SMAILI & ASSOCIATES, P.C.
600 West Santa Ana Blvd., Suite 202, Santa Ana, California 92701
(714) 547-4700DEFENDANTS (Check box if you are representing yourself ☐)United States Department of Homeland Security, JANET NAPOLITANO, Secretary;
U.S. Customs and Border Protection, DAVID V. AGUILAR, Deputy Commissioner;
Orange County, California, SANDRA HUTCHENS, Sheriff; City of Orange, California,
ROBERT H. GUSTAFSON, Chief of Police, *O. Mercer, City of Orange Police Officer.*

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
- ☒ 2. U.S. Government Defendant
- ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding
- ☐ 2. Removed from State Court
- ☐ 3. Remanded from Appellate Court
- ☐ 4. Reinstated or Reopened
- ☐ 5. Transferred from Another District (Specify)
- ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23:

☐ Yes ☒ No☐ MONEY DEMANDED IN COMPLAINT: \$VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
INJUNCTIVE RELIEF

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument			<input type="checkbox"/> 535 Death Penalty	
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment			<input type="checkbox"/> 540 Mandamus/Other	
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act			<input type="checkbox"/> 550 Civil Rights	
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)			<input type="checkbox"/> 555 Prison Condition	
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits			<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits			<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability				
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise				
<input type="checkbox"/> 893 Environmental Matters					
<input checked="" type="checkbox"/> 895 Freedom of Info. Act					
<input type="checkbox"/> 896 Arbitration					
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision					
<input type="checkbox"/> 950 Constitutionality of State Statutes					

FOR OFFICE USE ONLY: Case Number: **SACV 13 - 00393 CJC (MLGx)**

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ORANGE	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ORANGE	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
 Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ DATE: 2/21/2013
 Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit/Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))